



October 18, 2001

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2001-4708

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 153579.

The Texas Department of Criminal Justice (the "department") received a written request for the following categories of information pertaining to all inmates who have been recently admitted into the prison system: the inmate's full name, TDCJ number, date of birth, county of conviction, current prison address, offense for which convicted, sentence imposed, date of TDCJ intake, and parole eligibility date. You state that the department does not object to the release of most of the requested information. You contend, however, that the inmates' dates of birth and TDCJ intake are excepted from required public disclosure pursuant to section 552.131 of the Government Code.<sup>1</sup>

Please note that section 552.131 of the Government Code, as added by chapter 783, Acts of the 76th Legislature, relating to inmates of the department, has been renumbered as section 552.134 of the Government Code. *See* Act of May 22, 2001, 77<sup>th</sup> Leg., R.S.,

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

H.B. 2812, § 21.001(53) (codified at Gov't Code § 552.134). Section 552.134(a) of the Government Code provides:

Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas Department of Criminal Justice is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Section 552.029 of the Government Code provides:

Notwithstanding Section 508.313 or [552.134], the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice is subject to required disclosure under Section 552.021:

- (1) the inmate's name, identification number, *age*, birthplace, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;
- (2) the inmate's assigned unit or *the date on which the unit received the inmate*, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;
- (3) the offense for which the inmate was convicted or the judgment and sentence for that offense;
- (4) the county and court in which the inmate was convicted;
- (5) the inmate's earliest or latest possible release dates;
- (6) the inmate's parole date or earliest possible parole date;
- (7) any prior confinement of the inmate by the Texas Department of Criminal Justice or its predecessor; or
- (8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate. [Emphasis added.]

Section 552.134 is explicitly made subject to section 552.029. Although section 552.029 specifically makes public an inmate's age and "the inmate's assigned unit or the date on which the unit received the inmate," this provision does not provide for the release of an

inmate's date of birth, or specifically require that the date that the inmate was initially admitted into the prison system be released. We therefore conclude that these two categories of information must be withheld from the requestor pursuant to section 552.134 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

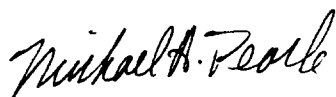
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Michael A. Pearle".

Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/RWP/seg

Ref: ID# 153579

Enc. Submitted documents

c: Mr. William Street  
Attorney at Law  
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(w/o enclosures)